THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 4497 OF 2007

DT: 22.10.2007

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Between:

Meenakshi Courts Flat Owner's
Welfare Assocation, Hyderabad.

… Petitioner

And :

Hyderabad Urban Development Authority (HUDA)
And others

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 4497 OF 2007

ORAL ORDER:

The petitioner is the Association of flat owners in Meenakshi Courts Building Complex, Jeedimetla village, Petbashirabad, Hyderabad. They allege that the respondents 1 and 2 are constructing unauthorisedly a septic tank in the adjacent open area which they claim has been specified as an open space in the HUDA final lay out bearing No. 7244/MP2/HUDA/93, dated 27.09.1995.

The petitioner claims that its members purchased flats in

Meenakshi Courts after verifying the HUDA lay out and satisfying themselves with the provisions made for open areas etc. The apartments in which they are residing, were constructed in the year 1998 after obtaining building permission from the concerned Municipality. According to the petitioner the area adjacent to their building was earmarked for a park and its members are maintaining the park for the purpose of their children's' entertainment and for providing walking space for elders. The petitioner also urge that the HUDA has sanctioned another lay out bearing Permit No. 9523/MP2/HUDA/93, dated 13.5.1998 called Spring Fields. It is opposite the Meenakshi Courts lay out. There is a provision for a septic tank in the Spring Fields lay out but not in the Meenakshi Courts lay out.

While so the 2nd respondent Municipality called for tenders for laying of underground drainage whereunder it was proposed to construct a septic tank in open are in front/adjacent to Meenakshi Lay out. This being objectionable the writ petition is filed seeking appropriate relief.

On behalf of the 2nd respondent a counter affidavit is filed which admits that in the final lay out vide permit No. 7244/MP2/HUDA/93, dated 27.9.1995 an extent of 2332 Sq.Yds. was earmarked as open area for providing amenities for public use. In this connection it is asserted (para-6) that one M.Eshwaraiah and 13 others had obtained approval for residential apartments in Plot Nos. 1 and 2 in Sy.Nos. 57, 59 and 60 vide permit No. 1157/P4/H/96, dated 19.3.1996, which is now known as Meenakshi Courts Apartments. On the western side there is an open space of 2486 Sq.Yds, which was exclusively used by the members of the petitioner's association allegedly for cultivating vegetables for their personal use. The general residents of the area

were excluded use of this area and either as a park or otherwise. It is now stated by Mr. Radhakrishna, the learned Standing Counsel for the 1st respondent that after institution of this writ petition the open area has now been released from the exclusive usage by the members of the petitioner's association and this area is now open for public use as an open space.

It is further stated that Mr. P.Swamy and others obtained another lay out vide permit No. 9523/MP2/HUDA/93, dated 13.5.1998, which is now known as Spring Fields. It is denied however that the Spring Fields lay out has an open space in which there is a provision for septic tank intended to cater to the needs of both the lay outs viz., Spring Fields and Meenakshi Courts.

It is however the position as per the final lay outs relating to Meenakshi Courts and Spring Fields that while the open area in the Meenakshi Courts is earmarked as just open space, there is a provision for a septic tank specifically mentioned in the lay out for the area now known as Spring Fields.

The counter affidavit in justification of the proposal to construct a septic tank in the open area relating to Meenakshi Courts Lay out states that as per the evaluation by its engineering personnel the open area adjacent to Meenakshi Courts is the lowest point which is viable for construction of a septic tank and therefore the septic tank is proposed thereat.

Since admittedly there is provision for a septic tank specifically earmarked in the lay out vide permit No. 9523/MP2/HUDA/93, dated 13.5.1998 (Spring Fields) and there is no such specification in the lay out vide permit No. 7244/MP2/HUDA/93, dated 27.9.1995 (Meenakshi Courts),the respondents are not entitled to construct a septic tank in the open area in the lay out now known as Meenakshi Courts. How

the official respondents including the HUDA approved a lay out and how the 2nd respondent granted building permissions without identifying a location for collection or release of the sewerage generated by these apartments, is exclusively within the knowledge and expertise of the 2nd respondent. The 2nd respondent does not share this expertise or wisdom with this court. Since the Hyderabad Metropolitan Water Supply and Sewerage Board, the HUDA and the 2nd respondent-Municipality, which is now a constituent of the Greater Hyderabad Municipal Corporation, are jointly and severally responsible for maintaining the health and hygiene of the habitants of the locality and since it is these agencies either singly or together which have brought about this situation by approving the lay outs and granting building permissions without any application of mind as to the destination of the effluents, these respondents will have now to devise methods and strategies irrespective of the costs involved for either removal of the effluents to their authorised destinations lawfully permitted or for closure or demolition of the structures by paying compensation for innocent victims of the lay outs and building permits granted negligently by these official agencies. In any of the matter construction of a septic tank in the open area comprising Meenakshi Courts complex is not permissible as there is no provision for a septic tank in the final lay out pertaining to this area.

On the above analysis the writ petition is disposed of directing the respondents not to construct the septic tank in the area earmarked as open space in the final lay out vide permit No. 7244/MP2/HUDA/93, dated 27.09.1995, now known as Meenakshi Courts.

No order as to costs.

Dt: 22.10.2007 ----------

Pvsn/Tsnr Justice G. Raghuram